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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/848,753	05/03/2001	Jeffrey N. Weiss	9889.6815	7827

7590 01/13/2004  
Malin, Haley & DiMaggio, P.A.  
1936 South Andrews Avenue  
Fort Lauderdale, FL 33316

EXAMINER
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DEANE JR, WILLIAM J

ART UNIT	PAPER NUMBER
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2642

DATE MAILED: 01/13/2004

9

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/848,753

Applicant(s)

WEISS, JEFFREY N.

Examiner

William J Deane

Art Unit

2642

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 27 October 2003.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1,2,4,5,8-23 and 25-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-2,4-5,8-23 and 25-29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All   b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)                      4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)                      5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_                      6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 9 – 10, 12 and 25 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Note lines 3 and 4 of claim 9.

Note line 3 of claim 10.

Note lines 2, 6 and 7 of claim 12.

Note that claim 25 depends from cancelled claim 24.

There are many more problems with the claims as presented. Therefore, applicant is cautioned not to conclude that this is an exhaustive list. The examples above are only intended to show applicant only some of the problems that exist.

In addition, applicant is reminded to, when making amendments to the claims, to point out in the specification where the added elements can be found in the specification. For example where can the vertical switch be found in the specification? Where is the series switch found or the dates (claims 27 – 29) found in the specification?

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 – 2, 4 – 5, 8 – 9, 13 – 14, 17 – 18, 25 – 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over U. S. Patent No. 4,266,098 (Novak) in view of U.S. Patent No. 6,298,122 (Horne).

Novak teaches the claimed device and method (see Col. 1, line 48 – Col. 3, line 37 and Figs 1 – 2), except for the setting of an activation period. Note that Horne teaches such at Fig. 3, elements 302 and 304 (In addition, note override codes). It would have been obvious to one of ordinary skill in the art to have incorporated such an activation period in the device and method as taught by Horne into the Novak device and method, as such would make the Novak device and method more convenient.

With respect to claim 21, such is inherent.

With respect to claim 16, note Col. 1, lines 48 – 57 of Novak.

With respect to claims 27 – 29, with respect to having a date field, since it has been shown that Horne has a time on and time off, it would be an obvious programming addition to incorporate dates and would have been obvious to one of ordinary skill in the art.

Claims 10 – 12, 15 - 16, 19 - 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Novak, Horne and U.S. Patent No. 5,604,791 (Lee).

Novak and Horne teach the claimed device and method except for the speaker aspect of the instant claims. However, note element #223 of Lee. Speakers are old in the art and it would have been obvious to one of ordinary skill to use a speaker wherever it was deemed necessary.

Further with respect to claim 15, switches are old in the art and it would have been obvious to one of ordinary skill in the art to use switches wherever it was deemed necessary. Note use of switches in the references cited above.

### ***Response to Arguments***

Applicant's arguments with respect to claims 1 – 2, 4 – 5, 8 – 23 and 25 - 29 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any


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extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bill Deane whose telephone number is (703) 306-5838. In addition, facsimile transmissions should be directed to Bill Deane at facsimile number (703) 872-9306.

11Jan04

  
**WILLIAM J. DEANE, JR.**  
**PRIMARY EXAMINER**